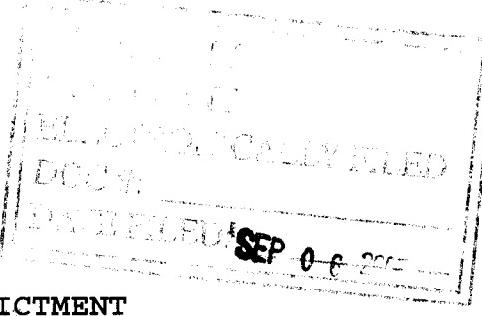


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA : 

- v. - : INDICTMENT

RAFAEL JIMENEZ, and : 07 Cr.  
GILBERT CESPEDES,

Defendants. : 

- - - - - x COUNT ONE

The Grand Jury charges:

1. From at least on or about August 14, 2007 up to and including on or about August 16, 2007, in the Southern District of New York and elsewhere, RAFAEL JIMENEZ and GILBERT CESPEDES, the defendants, and others known and unknown, unlawfully, intentionally, and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that RAFAEL JIMENEZ and GILBERT CESPEDES, the defendants, and others known and unknown, would and did distribute, and possess with intent to distribute, a controlled substance, to wit, five kilograms and more of mixtures and substances containing a detectable amount of cocaine, in violation of Sections 812, 841(a)(1), and 841(b)(1)(A) of Title 21, United States Code.

OVERT ACTS

3. In furtherance of the conspiracy, and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about August 15, 2007, GILBERT CESPEDES, the defendant, went to a K-mart store in the vicinity of White Plains Road, in the Bronx, New York, to discuss with an individual who is a cooperating witness for the Government ("CW-1") obtaining approximately sixteen kilograms of cocaine from CW-1.

b. On or about August 16, 2007, CESPEDES and RAFAEL JIMENEZ, the defendant, went to a parking lot in the vicinity of 73<sup>rd</sup> Street and Northern Boulevard in Queens, New York, to obtain approximately sixteen kilograms of cocaine from CW-1.

c. On or about August 16, 2007, in a parking lot in the vicinity of 73<sup>rd</sup> Street and Northern Boulevard in Queens, New York, CESPEDES gave CW-1 approximately \$20,000 as a partial payment for approximately sixteen kilograms of cocaine.

d. On or about August 16, 2007, in a parking lot in the vicinity of 73<sup>rd</sup> Street and Northern Boulevard in Queens, New York, JIMENEZ accepted a bag containing approximately sixteen kilograms of a substance that appeared to be cocaine, or "sham" cocaine, from CW-1.

(Title 21, United States Code, Section 846.)

FORFEITURE ALLEGATION

4. As a result of committing the controlled substance offense alleged in Count One of this Indictment, RAFAEL JIMENEZ and GILBERT CESPEDES, the defendants, shall forfeit to the United States, pursuant to 21 U.S.C. § 853, any and all property constituting or derived from any proceeds the said defendants obtained directly or indirectly as a result of the said violation and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the violation alleged in Count One of this Indictment.

Substitute Asset Provision

5. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants --

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of the

defendants up to the value of the above forfeitable property.

(Title 21, United States Code, Sections 841(a)(1), 846 and 853.)

  
John Wiltz  
FOREPERSON

  
Michael J. Garcia  
MICHAEL J. GARCIA  
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**UNITED STATES OF AMERICA**

- v. -

RAFAEL JIMENEZ, and  
GILBERT CESPEDES,

**Defendants.**

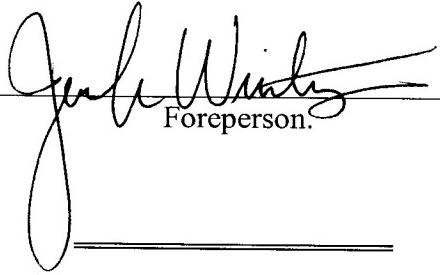
**INDICTMENT**

07 Cr. \_\_\_\_

(Title 21 Sections 846, 841(a)(1), 846 and 853)

Michael J. Garcia  
United States Attorney.

**A TRUE BILL**

\_\_\_\_\_  
  
Foreperson.

9/6/07  
Case assigned to I Chen  
M J Gorenstein